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January 25, 2010

**VIA FEDERAL EXPRESS OVERNIGHT**

Mr. Ray Basso, Strategic Integration Mgr.  
Emergency and Remedial Response Division  
USEPA, Region II  
290 Broadway  
New York, NY 10007-1866

RE: Diamond Alkali Superfund Site  
Notice of Potential Liability for Response Actions in the  
Lower Passaic River Study Area, New Jersey

Dear Mr. Basso:

I represent Fiske Brothers Refining Company ("Fiske"). As their representative, I am responding to a General Notice Letter sent by you and date-stamped December 11, 2009. In that letter you refer to Fiske's "potential liability" relating to the Lower Passaic River Study Area "pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 967(a)."

Your letter requested that we become "a cooperating party" for the Lower Passaic River Restoration Project by participating in the Cooperating Party Group ("CPG") and encouraged us to contact William Hyatt, counsel for the Lower Passaic River Study Area CPG. As a result of your suggestion, I contacted Mr. Hyatt who informed me that, subsequent to the issuance of General Notice Letters, he, on behalf of the CPG, gives a presentation regarding the issues involved and the benefits of joining the CPG. He also confirmed that the CPG has committed to performing a study that will cost at least \$37 million but may actually cost significantly more. I then called Ms. Sarah Flanagan, Assistant Regional Counsel, and requested a copy of the Fiske nexus package. Ms. Flanagan was extremely courteous and cooperative and supplied my office with copies of the EPA documents via E-mail.

While we are continuing to pursue the course of conduct recommended in your letter, our preliminary investigation does not appear to support Fiske becoming a member of the CPG.

Mr. Ray Basso  
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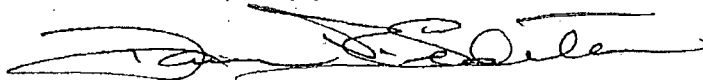
The nexus package for Fiske references two incidents: one occurring in 1973 and the other in 1978. The 1973 incident references an oil spill by Chemical Leaman when it delivered product to my client's site. The same document that references the spill states that Fiske personnel were responsible for coming to the scene and cleaning up the leak/spill. The second incident refers to a pipe on Fiske property which appeared to contain a black oily substance. There is no evidence as to what the substance was or if it ever reached the Passaic River. It should be noted that Fiske dealt with petroleum products. Said products are listed as an exception to the CERCLA Hazardous Substance List under 42, U.S.C. 9601 (14).

Given the tenuous connection between Fiske and the Lower Passaic River Study Area, the products Fiske dealt with, and the huge financial commitment which the CPG appears to require (As you know from your investigation, Fiske is not a Fortune 500 company.), joining said Group does not appear to make sense from either a legal or financial point of view.

As stated earlier, we continue to stay in contact with and remain open to meeting with Mr. Hyatt when he makes his presentation. Until we have reviewed all information regarding this issue, no recommendations will be made by this office, and no final decisions will be made by Fiske.

If there are any questions regarding the above, please feel free to contact our office at 973-787-0299.

Very truly yours,

A handwritten signature in black ink, appearing to read "Damon R. Sedita", with a stylized flourish at the end.

DAMON R. SEDITA

DRS/mjp  
cc: Ms. Sarah Flanagan via E-mail